

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
PANAMA CITY DIVISION**

**RAMON ARMAS BORROTO, JR.,**

**Plaintiff,**

**vs.**

**Case No. 5:04cv165-RH/WCS**

**OFFICER L. McDONALD,  
OFFICER H.A. PATE,  
SERGEANT McKENZIE,  
and NURSE DONNA KENT,**

**Defendants.**

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**ORDER**

This civil rights case filed under 42 U.S.C. § 1983 has been remanded after denial of the summary judgment motion filed by Defendants. Doc. 79. Summary judgment was denied because there is a genuine dispute of fact concerning the *pro se* Plaintiff's claim that Defendants violated his Eighth Amendment rights. However, Plaintiff's claims for damages based on emotional or mental injury are dismissed, leaving requests for nominal and punitive damages against the four remaining Defendants.<sup>1</sup>

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<sup>1</sup> A suggestion of death was filed concerning Defendant Mervin Speight, doc. 31, and Plaintiff voluntarily dismissed his claims against this Defendant. Doc. 45.

While the special report was designed to streamline the discovery process in cases of this nature, the Court realizes that the parties may wish to conduct further discovery prior to proceeding to an evidentiary hearing or trial.<sup>2</sup> Thus, the parties will be given an opportunity to file motions showing good cause to engage in additional discovery and detailing the nature and scope of any discovery they deem necessary. In showing good cause, such a motion must clearly demonstrate that there is a need for the materials sought, that the materials are relevant to developing material issues not already covered through the special report process, that the information is not otherwise available to the party, and that the requested discovery is necessary to provide a full and fair hearing on the merits. A sufficient showing of good cause is especially important in cases such as this where the dispute concerns facts which are as much within the knowledge of Plaintiff as the Defendants. Any proposed discovery requests shall be attached to the motion. The parties should not file a reply to any motion for discovery that may be filed until directed to do so by the Court.

Furthermore, in accordance with 28 U.S.C. § 636(c)(2), the Clerk shall forward to Plaintiff the form for consenting to trial by the magistrate judge, with the case number written on it. If Plaintiff wishes to consent, he shall sign the form and send it to counsel for Defendants. If Defendants wish to consent, the form shall be signed and returned to the Clerk no later than **October 31, 2006**. The parties are, of course, entirely free to withhold such consent without any adverse consequences.

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<sup>2</sup> Plaintiff's amended complaint, doc. 19, includes a demand for a jury trial.

Accordingly, it is

**ORDERED:**

1. The parties shall have until **October 31, 2006**, to file motions detailing the scope and nature of any further discovery necessary, and showing good cause for a need to conduct such discovery.
2. The Clerk of Court shall provide Plaintiff the form for consenting to trial by the magistrate judge, with the case number written on it.
3. Should the parties consent to trial by a magistrate judge, the signed consent form shall be filed by **October 31, 2006**.
4. The Clerk shall return this file to the undersigned no later than October 31, 2006.

**DONE AND ORDERED** on September 28, 2006.

s/ William C. Sherrill, Jr.  
**WILLIAM C. SHERRILL, JR.**  
**UNITED STATES MAGISTRATE JUDGE**